

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

CHAPTER Jus 1400 CONDOMINIUM RULES

Statutory Authority: RSA 541-A, RSA 356-B:49, III, RSA 356-B:48

PART Jus 1401 DEFINITIONS

Jus 1401.01 “Bureau” means the bureau of consumer protection and antitrust, New Hampshire department of justice.

Source. #5299, eff 1-19-92, EXPIRED: 1-19-98

New. #7641, eff 1-31-02

Jus 1401.02 “Dispose” or “disposition” means “dispose” or “disposition” as set forth in RSA 356-B:3, XIV, namely “any sale, contract, assignment or any other voluntary transfer of a legal or equitable interest in a condominium unit, except as security for a debt.” The term also includes, without limitation, sale by public auction.

Source. #5299, eff 1-19-92, EXPIRED: 1-19-98

New. #7641, eff 1-31-02

Jus 1401.03 “Documentary evidence” means:

- (a) In the case of cost estimates, documentation obtained from the suppliers of the services.
- (b) In the case of estimates of completion dates:
 - (1) Actual contracts let;
 - (2) Engineering schedules; or
 - (3) Other evidence of commitments to complete construction.

Source. #5299, eff 1-19-92, EXPIRED: 1-19-98

New. #7641, eff 1-31-02

Jus 1401.04 “Good faith estimate” means an estimate based on such documentary evidence as is available.

Source. #5299, eff 1-19-92, EXPIRED: 1-19-98

New. #7641, eff 1-31-02

Jus 1401.05 “Institutional lender” means “institutional lender” as defined in RSA 356-B:3, XVII, namely:

- (a) Commercial or savings bank;
- (b) Savings and loan association;
- (c) Trust company;
- (d) Credit union;

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- (e) Industrial loan association;
- (f) Insurance company;
- (g) Pension fund;
- (h) Business trust, including but not limited to:
 - (1) Real estate investment trusts; or
 - (2) Any other entity regularly engaged in financing the:
 - a. Purchase;
 - b. Construction; or
 - c. Improvement of real estate.
- (i) Any assignee of loans made by such lender; or
- (j) Any combination of the foregoing entities.

Source. #5299, eff 1-19-92, EXPIRED: 1-19-98

New. #7641, eff 1-31-02

Jus 1401.06 “Office of the attorney general” and “attorney general’s office” mean the New Hampshire department of justice.

Source. #5299, eff 1-19-92, EXPIRED: 1-19-98

New. #7641, eff 1-31-02

Jus 1401.07 “Principal” means:

- (a) Each officer, partner, or trustee of the declarant, or person occupying similar status or performing similar functions; or
- (b) Each natural person:
 - (1) Who is a real party in interest having more than a 10 percent ownership;
 - (2) Who has a beneficial interest in the declarant; or
 - (3) Having more than a 20 percent ownership or beneficial interest in any entity that has a majority direct or majority beneficial interest in the declarant.

Source. #5299, eff 1-19-92, EXPIRED: 1-19-98

New. #7641, eff 1-31-02

PART Jus 1402 FEES

Jus 1402.01 Method of Payment. Fees paid by check or money order shall be made payable to the State of New Hampshire.

Source. #5299, eff 1-19-92, EXPIRED: 1-19-98

New. #7641, eff 1-31-02

Jus 1402.02 Calculation of Fees.

(a) The amount of the fee for an original application for registration or an application for registration of additional units shall be calculated pursuant to this section.

(b) The fee accompanying each initial application for registration shall be no less than \$300, nor more than \$2,000. The fee accompanying each additional application shall be no less than \$200, nor more than \$2,000. This paragraph shall be construed to mean that the total fee for a condominium that is to be registered in phases can exceed \$2,000.

(c) Subject to paragraph Jus 1402.02(a), the amount of the fee for each application shall be calculated by multiplying the number of units for which registration is sought by \$30. This figure shall not include all units eventually to be added to the condominium, but only those units for which registration at the present time is sought.

(d) No declarant shall be entitled to apply amounts paid in connection with an application to future applications or to registration of additional units.

(e) The amount of the appropriate fee and any refund shall be determined by reference to the number of units applied for, and not by reference to the number of units actually registered.

(f) The fee shall be submitted at the time the application is filed with the bureau.

Source. #5299, eff 1-19-92, EXPIRED: 1-19-98

New. #7641, eff 1-31-02

Jus 1402.03 Refunds.

(a) Upon discovery by the bureau that an overpayment has been made, the bureau shall, as soon thereafter as is practicable, cause to be returned to the applicant the amount of the overpayment.

(b) No refund shall be due if:

(1) An application is rejected by the bureau; or

(2) Withdrawn by the applicant after a Notice of Filing has been issued.

(c) Once an application has been rejected or withdrawn, reconsideration of the application or the filing of a new application shall require submission of an additional fee calculated in the manner provided by Jus 1402.02.

(d) When an application has been returned to the applicant pursuant to Jus 1405.18, the bureau shall as soon thereafter as is practicable return the application fee in its entirety.

Source. #5299, eff 1-19-92, EXPIRED: 1-19-98

New. #7641, eff 1-31-02

Jus 1402.04 Exemption Fees. The amount of the fee that shall accompany an application for exemption shall be \$200.

Source. #5299, eff 1-19-92, EXPIRED: 1-19-98

New. #7641, eff 1-31-02

PART Jus 1403 CREATION AND CONSTRUCTION OF CONDOMINIUM

Jus 1403.01 Prior Recordations Not Invalidated. Jus 1403.02 shall not apply to any recording of floor plans recorded prior to January 21, 1986, nor shall Jus 1403.02 invalidate the creation of any condominium or unit that occurred prior to January 21, 1986.

Source. #5299, eff 1-19-92, EXPIRED: 1-19-98

New. #7641, eff 1-31-02

Jus 1403.02 Recording of Floor Plans. No floor plans of any structure which, when constructed, shall contain or constitute all or a part of any unit or units, and which is located or to be located on any portion of the submitted land other than within the boundaries of any convertible lands, shall be recorded until such time as all units, or those portions of units that are contained within or constitute structures, depicted on such plans have been certified as substantially completed pursuant to RSA 356-B:20, I, II.

Source. #5299, eff 1-19-92, EXPIRED: 1-19-98

New. #7641, eff 1-31-02

Jus 1403.03 Preliminary Recordation. Jus 1403.02 shall not be construed to prohibit the preliminary recordation of floor plans as contemplated by RSA 356-B:21.

Source. #5299, eff 1-19-92, EXPIRED: 1-19-98

New. #7641, eff 1-31-02

Jus 1403.04 Application of Deposits to Construction.

(a) If, for the purpose of applying deposits to the construction of a condominium, a declarant elects to deliver any deposits to the person providing construction financing, the following requirements shall apply:

- (1) The person applying deposits to construction shall be an institutional lender not prohibited from doing business in the state in which the condominium is located;
- (2) The declarant shall provide written notice to the bureau of:
 - a. The name and address of the construction lender; and
 - b. A copy of the agreement between the lender and declarant which incorporates the statutory limitation that said lender shall either:

1. Hold deposits in escrow; or
 2. Apply them to the construction of the condominium; and
 - (3) The declarant shall provide any additional information that will assure that the deposits of purchasers are adequately protected.
- (b) Deposits made in connection with non-binding reservation agreements shall be held in escrow.

Source. #5299, eff 1-19-92, EXPIRED: 1-19-98

New. #7641, eff 1-31-02

PART Jus 1404 EXEMPTIONS

Jus 1404.01 Recordkeeping.

(a) Every declarant shall keep a copy of each document and all written information submitted to the bureau in connection with any notice or application for exemption ultimately granted until January 31 of the calendar year following the year in which all units in the condominium shall have been sold or disposed of by the declarant.

Source. #5299, eff 1-19-92, EXPIRED: 1-19-98

New. #7641, eff 1-31-02

Jus 1404.02 Exemption from Registration; 25 Units.

(a) Pursuant to RSA 356-B:49, III, the bureau shall exempt a condominium from the registration and annual reporting requirements of RSA 356-B:50, I, and RSA 356-B:51-55 if the following conditions are met:

- (1) The total number of units in the condominium shall not exceed 25, including any units to be added by reason of expansion or merger;
- (2) The condominium shall not be a time sharing or conversion condominium;
- (3) The declarant shall be the owner of record of the condominium property at the time the application for exemption is filed;
- (4) The declarant shall be the person or entity offering and disposing of interests in the units either personally or through agents;
- (5) The declarant has obtained financing commitments satisfying the standards set forth in Jus 1405.11;
- (6) Prior to a prospective purchaser entering into a purchase and sale agreement, the declarant shall:
 - a. Disclose in writing to each prospective purchaser all improvements which are promised and which are proposed or contemplated but not promised; and
 - b. Post a bond in favor of the unit owners' association and the bureau, to insure completion of all promised improvements, other than units;

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(7) Construction of all improvements shall be complete within 2 years from the date the application for exemption is filed with the bureau, including:

- a. Units;
- b. Amenities;
- c. Utilities;
- d. Access; and
- e. Any other improvements listed in the application.

(8) Deposits made by unit purchasers shall not be applied to construction by any person, but shall be held in escrow until settlement or closing;

(9) A lawyer licensed to practice law in New Hampshire, shall certify that the condominium instruments and other legal documents comply with the provisions of RSA 356-B and these rules;

(10) The declarant shall not have been convicted of any crime within the past 10 years which, if it had been committed in this state, would constitute a felony.

(11) The declarant shall not have been the subject of:

- a. A cease and desist order;
- b. Revocation,
- c. Injunction; or
- d. Similar enforcement order relating to illegal condominium or land sales activity in this state or elsewhere.

(12) The declarant shall not have as a principal any person or entity:

- a. Who has been subject to such enforcement order or criminal conviction; or
- b. Who has been a principal in an entity that has been subject to such enforcement order or criminal conviction; and

(13) The purchase and sale agreement shall:

- a. Contain a notice specifying the cancellation rights provided by RSA 356-B:50, II;
- b. Identify the person or institution holding deposits in escrow by name and address; and
- c. Provide for delivery of a warranty deed to the purchaser within 180 days from the date the agreement is signed.

Source. #5299, eff 1-19-92, EXPIRED: 1-19-98

New. #7641, eff 1-31-02

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Jus 1404.03 Application.

(a) A declarant requesting an exemption from registration pursuant to Jus 1404.02 shall:

- (1) Make application on form CPLC121; and
- (2) File the application at the office of the bureau.

Source. #5299, eff 1-19-92, EXPIRED: 1-19-98

New. #7641, eff 1-31-02

Jus 1404.04 Fee. The application shall be accompanied by a non-refundable fee in the amount of \$200.

Source. #5299, eff 1-19-92, EXPIRED: 1-19-98

New. #7641, eff 1-31-02

Jus 1404.05 Contents of Application.

(a) In addition to compliance with Jus 1404.02, the application for exemption, form CPLC121, shall also contain the following:

- (1) An irrevocable appointment of the bureau to receive service of any lawful process in any non-criminal proceeding arising under RSA 356-B against the declarant or the declarant's personal representative;
- (2) The declarant's name and address as well as the following:
 - a. The form, date, and jurisdiction of organization; and
 - b. The address of each of its offices in New Hampshire;
- (3) A description of the declarant's affiliation or association with any other condominium or subdivision, existing or proposed, in New Hampshire or elsewhere;
- (4) A statement as to whether all applicable federal, state, and local approvals have been obtained, other than the exemption being sought from the bureau;
- (5) The name, address, date of birth, and principal occupation for the past 5 years of every principal of the declarant, except that any institutional lender which holds title to a condominium or any unit therein, by foreclosure or pursuant to foreclosure deed or deed in lieu thereof, shall provide such information only for those employees, officers, or directors who are directly responsible for and who exercise actual authority over the development and/or marketing of interests within such condominium, whether or not such persons are principals of the institutional lender as defined by Jus 1401.06;
- (6) When applicable, evidence of:
 - a. Proper registration:
 1. To do business in this state;
 2. To use a trade name, if any; and

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- b. Compliance with requirements of state tax laws.
- (7) The name and location of the condominium, as well as:
 - a. The total number of units in the condominium, including any units that might be added by reason of future expansion or merger; and
 - b. A sequential list of units, to the extent possible, for which exemption is sought;
- (8) Copies of:
 - a. The declaration, pursuant to RSA 356-B:16;
 - b. Bylaws; and
 - c. Rules and regulations, if any, of the unit owners' association;
- (9) The identification of any interest in a condominium unit that has been offered or disposed of prior to obtaining exemption or registration, and the name and address of each purchaser;
- (10) A list of:
 - a. All encumbrances, such as land acquisition or construction mortgage; and
 - b. Liens and matters of title affecting the condominium, including:
 - 1. The name and address of each mortgagee or lien holder;
 - 2. The amounts involved; and
 - 3. Arrangements made for partial releases or discharges;
- (11) If there is a blanket encumbrance or lien affecting more than one unit, a statement of the consequences for a purchaser of failure to discharge the blanket encumbrance or lien and the steps taken, if any, to protect the purchaser in case of eventuality;
- (12) A statement of assurance that the declarant will be able to convey or cause to be conveyed, good and marketable title to the interests in the units offered for disposition if the purchaser complies with the terms of the offer;
- (13) An itemization of improvements and amenities which are complete or promised, and the estimated cost and schedule for their completion;
- (14) A statement of the existing provisions for:
 - a. Access;
 - b. Sewage disposal;
 - c. Water; and
 - d. Other public utilities in the condominium;
- (15) A description of any initial or recurring fee or charge the purchaser is required to pay;
- (16) A projected budget for the first year of operation of the condominium;

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- (17) A copy of the unit purchase and sale agreement;
- (18) An affidavit by the applicant that said applicant has the authority to file the application and, further, that said applicant certifies the truth, accuracy, and completeness of its contents; and
- (19) A certificate from the declarant showing authorization for the application to be made.

Source. #5299, eff 1-19-92, EXPIRED: 1-19-98

New. #7641, eff 1-31-02

Jus 1404.06 Attorney Qualifications.

(a) Attorneys submitting the certification required by Jus 1404.02(9) shall be licensed to practice law in the State of New Hampshire.

Source. #5299, eff 1-19-92, EXPIRED: 1-19-98

New. #7641, eff 1-31-02

Jus 1404.07 Effect of Filing.

(a) Upon filing a complete application under Jus 1404.03, the declarant may commence offering units in the condominium.

(b) No closing or settlement conveying a unit shall take place prior to the time an exemption has been granted as provided in Jus 1404.16(c) or the condominium has been registered.

(c) Until such time as the exemption has been granted, no closing or settlement shall be scheduled for a date that is less than 60 days after the date on which an application under Jus 1404.03 has been filed.

(d) No person shall file an application under Jus 1404.03 that is incomplete in any respect. Nor shall any person seek a waiver of this requirement or any of the requirements of Jus 1404.02 through 1404.07.

Source. #5299, eff 1-19-92, EXPIRED: 1-19-98

New. #7641, eff 1-31-02

Jus 1404.08 Exemption from Registration; 10 Residential Units.

(a) Pursuant to RSA 356-B:49, III, the bureau shall exempt from the registration and annual reporting requirements of RSA 356-B:50, I, and RSA 356-B:51-55, a condominium having more than 10 units, if not more than 10 of the units are intended for residential use.

(b) The exemption provided for in (a) above shall not be available to any condominium involving time sharing interests.

Source. #5299, eff 1-19-92, EXPIRED: 1-19-98

New. #7641, eff 1-31-02

Jus 1404.09 Application.

(a) A declarant requesting exemption from registration pursuant to Jus 1404.08 shall make application on form CPLC122 and shall file the application at the offices of the bureau.

Source. #5299, eff 1-19-92, EXPIRED: 1-19-98

New. #7641, eff 1-31-02

Jus 1404.10 Fee. The application, CPLC122, shall be accompanied by a non-refundable fee in the amount of \$200.

Source. #5299, eff 1-19-92, EXPIRED: 1-19-98

New. #7641, eff 1-31-02

Jus 1404.11 Contents of Application.

(a) In addition to evidence, satisfactory to the bureau, of compliance with Jus 1404.08, the application for exemption shall contain that information and documentation provided for by Jus 1404.05(a)(1) through (7) and (9) through (14), to the extent that they apply to purchasers of residential units, and shall include evidence of compliance with Jus 1404.02(10) with respect to residential units and compliance with Jus 1404.02(9).

Source. #5299, eff 1-19-92, EXPIRED: 1-19-98

New. #7641, eff 1-31-02

Jus 1404.12 Review by the Bureau.

(a) The time periods and procedures provided by Jus 1404.16(c) through (f) shall govern applications made pursuant to Jus 1404.03 or Jus 1404.09.

Source. #5299, eff 1-19-92, EXPIRED: 1-19-98

New. #7641, eff 1-31-02

Jus 1404.13 Exemption from Registration; Other Grounds.

(a) Pursuant to RSA 356-B:49, III, the bureau shall exempt any condominium from the registration and annual reporting requirements of RSA 356-B:50, I, and RSA 356-B:51-55 if it finds that such registration and annual reports are not necessary in the public interest and for the protection of purchasers by reason of the small amount involved or the limited character of the offering.

Source. #5299, eff 1-19-92, EXPIRED: 1-19-98

New. #7641, eff 1-31-02

Jus 1404.14 Application. The provisions of Jus 1404.16 shall govern application procedures under Jus 1404.13.

Source. #5299, eff 1-19-92, EXPIRED: 1-19-98

New. #7641, eff 1-31-02

Jus 1404.15 Exemption Certificate.

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(a) Exemption from the registration requirements of RSA 356-B shall be evidenced by a certificate issued by the bureau to the declarant.

(b) The exemption shall authorize the offer or disposition of only those units, or interests in units, identified in the certificate.

(c) The bureau shall issue the certificate within 20 days after the effective date of the exemption.

(d) The declarant of a condominium located in New Hampshire shall cause any certificate of exemption issued by the bureau with respect to such condominium to be recorded in the registries of deeds for all counties in which the condominium is located. Such recordation shall occur within 10 days of receipt of a certificate of exemption by the declarant.

(e) The declarant shall, as soon as is practicable, obtain recordation data, consisting of:

(1) The date of recordation;

(2) The book and page numbers or their equivalent; and

(3) Shall also provide the bureau, in writing, with a copy of the recorded certificate within 10 days of receipt thereof by the declarant.

(f) Except if otherwise provided by the terms of the certificate, an exemption shall remain in full force and effect until such time as it has been revoked as provided by Jus 1404.17.

Source. #5299, eff 1-19-92, EXPIRED: 1-19-98

New. #7641, eff 1-31-02

Jus 1404.16 Exemptions from Other Statutory Requirements.

(a) Except for applications for exemption otherwise provided for by these rules, an application for exemption from any of the provisions of RSA 356-B shall be made by written letter submitted to the offices of the bureau. The letter shall be captioned form CPLC120/EXEMPTION REQUEST. An application shall be accompanied by a non-refundable fee in the amount of \$200.

(b) The application shall provide all information and documents that would assist the bureau in making a determination as permitted by RSA 356-B:49, III.

(c) Information required pursuant to (b) above shall include, at a minimum:

(1) A detailed description of the activity for which an exemption is being requested;

(2) A statement explaining the necessity for the exemption; and

(3) A statement as to why enforcement of the relevant provisions of RSA 356-B is not necessary in the public interest and for the protection of purchasers by reason of:

a. The small amount involved; and/or

b. The limited character of the offering.

(d) Within 60 days after receipt of an application, the bureau shall notify the applicant, either orally or in writing, that the:

- (1) Application contains apparent errors or omissions, which shall be identified by the bureau;
- (2) Application has been denied in whole or in part;
- (3) Exemption has been granted in whole or in part; or
- (4) Applicant shall be required to submit additional information.

(e) The time limit imposed by Jus 1404.16(c) may be waived by the applicant and shall be extended by the bureau if the bureau determines that more time is needed to make the appropriate determination.

(f) Except as provided by Jus 1404.07, no person shall engage in any conduct with respect to which an exemption has been or should have been sought under this rule, until such time as the application for exemption has been granted.

(g) The bureau shall impose any condition of exemption for the protection of the purchasers pursuant to RSA 356-B.

(h) The provisions of Jus 1404.16 shall apply to any request for authorization to use a public offering statement prior to registration of the units in the condominium to which it refers, except that no fee shall be required to accompany the request, provided, however, that this section shall not prevent the bureau, where otherwise authorized, from requiring the use of a public offering statement prior to registration of the condominium.

Source. #5299, eff 1-19-92, EXPIRED: 1-19-98

New. #7641, eff 1-31-02

Jus 1404.17 Revocation.

(a) If, subsequent to the issuance of an exemption from registration, or other exemption, the bureau has reasonable grounds to believe that exemption in the particular case is not in the public interest, the bureau shall, upon notice and opportunity for hearing as provided by Jus 1408, revoke the exemption.

(b) Grounds for revocation shall include:

- (1) Material omissions or misrepresentations in documents submitted to the bureau;
- (2) The conviction of the declarant or its agents for a crime involving fraud, deception, false pretenses, misrepresentation, false advertising or dishonest dealing in real estate transactions;
- (3) Insolvency of the declarant or a party providing financing;
- (4) Receipt by the bureau of adverse information about the condominium that should have been disclosed to purchasers; and
- (5) Any other acts or omissions by the declarant or its agents contrary to the public interest as embodied in these rules, RSA 356-B, or other statutes.

Source. #5299, eff 1-19-92, EXPIRED: 1-19-98

New. #7641, eff 1-31-02

Jus 1404.18 Prior Sales.

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(a) The exemptions from registration and annual reporting provided by Jus 1404.02, Jus 1404.08, and Jus 1404.13 shall not be available for any condominium in which the declarant has conveyed any legal or equitable interest in any parcel, lot, unit, or interest by means of a deed or other final disposition, including the signing of an installment contract, prior to obtaining an exemption.

(b) Nothing in this section shall be construed to prevent the bureau from taking any administrative or judicial action, otherwise authorized by law, against any person who has engaged in or is about to engage in conduct constituting a violation of RSA 356-B or these rules, including the conduct described in Jus 1404.18(a) and (b).

Source. #5299, eff 1-19-92, EXPIRED: 1-19-98

New. #7641, eff 1-31-02

Jus 1404.19 (Reserved)

Source. #5299, eff 1-19-92, EXPIRED: 1-19-98

New. #7641, eff 1-31-02

Jus 1404.20 Bulk Sales to Builders and Developers.

(a) A declarant may dispose of some or all units or interests in a condominium otherwise subject to registration or exemption under RSA 356-B prior to registration or exemption of said units or interests under any other provision of these rules to persons who will further develop or improve them and offer and dispose of them to purchasers for residential use under the following conditions:

- (1) The declarant shall, prior to disposing of any units or interests to such persons, apply to the bureau in writing for an exemption from RSA 356-B:50, I and II;
- (2) The application to the bureau shall be by affidavit, captioned Form CPLC120-BULK SALE;
- (3) The application shall be signed by the declarant or an officer or principal of the declarant authorized to sign such statement;
- (4) The application shall be accompanied by a non-refundable fee in the amount of \$200;
- (5) The application, CPLC120, shall include:
 - a. The names, addresses, and telephone numbers of the declarant, one of its principals, and its attorneys, if any;
 - b. The name and location of the condominium;
 - c. The total number of units or interests that are included in, or might eventually be included in the condominium;
 - d. The number of units or interests to be disposed of pursuant to the bulk sale;
 - e. The names, addresses, and telephone numbers of any and all persons or entities to which the disposition is made pursuant to the bulk sale;

f. If the disposition is made to a legally constituted entity, identification of the legal form of said entity, the location of its principal place of business, and the identity of each principal thereof;

g. A statement that no offers or dispositions of the units or interests for which exemption is sought pursuant to the bulk sale have been made prior to the date the notice was mailed or delivered to the bureau, except as provided by (b) below; and

h. A statement that the purchase agreement between the declarant and the persons or entities identified in subsection e. above shall contain an acknowledgment that no offers or dispositions can be made to any purchaser for residential use until such time as the condominium and the subject units or interests have been registered or exempted by the bureau upon application by the purchaser thereof;

(6) All units or interests subject to Jus 1404.20 shall be registered or exempted by the bureau prior to offers or dispositions being made to purchasers for residential use, regardless of whether a subsequent declarant is to offer or dispose of fewer than 10 units therein; and

(7) The provisions of Jus 1404.20 shall not apply to any condominium involving time share interests.

(b) Within 30 days after receipt of an application for a bulk sale exemption, the bureau shall notify the applicant, either orally or in writing, that:

(1) The application contains apparent errors or omissions, which shall be identified by the bureau;

(2) The application has been denied in whole or in part;

(3) The exemption has been granted in whole or in part; or

(4) The applicant shall be required to submit additional information;

(c) The time limit imposed by Jus 1404.20(b) may be waived by the applicant;

(d) No person shall engage in any conduct with respect to which an exemption has been or should have been sought under this rule, until such time as the application for exemption has been granted;

(e) The bureau shall impose any condition of exemption for the protection of the purchasers pursuant to RSA 356-B;

(f) Any exemption granted pursuant to this section shall be limited to the disposition described in the notice submitted by declarant pursuant to this section; and

(g) If the disposition of units or interests identified in a notice submitted to the bureau pursuant to this section is not consummated as set forth in the notice, the declarant shall so notify the bureau in writing.

(h) Neither this section, nor any other section of these rules or of RSA 356-B shall be construed to prohibit a declarant from soliciting or negotiating offers to purchase some or all units or interests in a condominium prior to registration or exemption of those units from persons or entities who will further develop or improve such units and offer or dispose of them to purchasers for residential use, provided that the

declarant shall apply for, and receive exemption pursuant to this section prior to disposing of such units or interests.

Source. #5299, eff 1-19-92, EXPIRED: 1-19-98

New. #7641, eff 1-31-02

Jus 1404.21 Applications Not in Proper Form.

(a) Upon receipt of an application for exemption pursuant to Jus 1404.02 or 1404.08 that is not in proper form, including but not limited to an incomplete application or an application made on an incorrect form, the bureau shall return the application to the applicant. However, if the bureau has reason to believe the application can be readily put into proper form, it shall retain the application and issue to the applicant only a Notice of Deficiencies specifying the deficiencies in its form and any other appropriate correspondence or document.

(b) If the application is not put in proper form within 15 days after the issuance of a Notice of Deficiencies, the bureau shall enter an order rejecting the registration, pursuant to RSA 356-B:54, III.

Source. #5299, eff 1-19-92, EXPIRED: 1-19-98

New. #7641, eff 1-31-02

PART Jus 1405 REGISTRATION

Jus 1405.01 Non-Residential Condominiums.

(a) The exemption from registration of condominiums in which all units are restricted to non-residential use provided in RSA 356-B:49, I(b) shall not apply to any condominium as to which there is a substantial possibility that a unit therein, other than a unit owned by the declarant at the time of such use, might be used by the unit owner as permanent or temporary living quarters, including use as:

- (1) A vacation home;
- (2) A temporary overnight dwelling; or
- (3) A site upon which vehicular or other portable living quarters will be placed or occupied by the unit owner.

(b) This section shall not prohibit a declarant from applying for exemption from registration pursuant to Jus 1404.13 and Jus 1404.14, in a case where the residential use by the unit owner is limited and the standards for granting the exemption are otherwise satisfied.

Source. #5299, eff 1-19-92, EXPIRED: 1-19-98

New. #7641, eff 1-31-02

Jus 1405.02 Recordkeeping.

(a) Every declarant shall keep a copy of each document and all written information submitted to the bureau in connection with any application for exemption ultimately granted until January 31 of the calendar

year following the year in which all units in the condominium shall have been sold or disposed of by the declarant.

Source. #5299, eff 1-19-92, EXPIRED: 1-19-98

New. #7641, eff 1-31-02

Jus 1405.03 Application for Comprehensive Registration.

(a) Application for registration of a condominium of more than 25 units shall be:

- (1) Made on form CPLC100, application for comprehensive registration; and
- (2) Filed at the office of the bureau.

(b) Application shall be made on form CPLC100 for any condominium that upon construction or addition of all of the units which the condominium instruments reserve the right to construct or add, would include more than 25 units.

Source. #5299, eff 1-19-92, EXPIRED: 1-19-98

New. #7641, eff 1-31-02

Jus 1405.04 Contents of Application for Comprehensive Registration, CPLC100.

(a) In addition to the documents and information required by RSA 356-B:51, I, or otherwise required by these rules, an application for comprehensive registration shall also contain the information and documentation described in Jus 1405.06 and Jus 1405.08, as well as the following:

- (1) A completed form CPLC170 for each principal except that, any institutional lender which holds title to a condominium or any unit therein by foreclosure or pursuant to foreclosure deed or deed in lieu thereof shall provide such information only for those employees, officers, or directors who are directly responsible for and who exercise actual authority over the development and/or marketing of interest within such condominium, whether or not such persons are principals of the institutional lender as defined by Jus 1401.03;
- (2) A description of the declarant's affiliation or association with any other condominium or subdivision, existing or proposed, in New Hampshire and elsewhere;
- (3) When applicable, evidence of:
 - a. Proper registration to do business in this state;
 - b. Proper registration to use a trade name, if any; and
 - c. Compliance or intention to comply with requirements of the state tax laws at RSA 77-A;
- (4) The name and location of the condominium as well as:
 - a. The number of units and time sharing interest therein to be registered in the filing;
 - b. To the extent possible, a sequential list of units to be registered in the filing; and
 - c. The maximum number of units and time sharing interests therein, if any, that might eventually be included in the condominium;

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- (5) The number of acres to be registered in the filing, and the total number of acres that might be included in the condominium in the event all additional land is added to the condominium;
- (6) The minimum, average, and maximum size of units to be registered in this filing;
- (7) Identification of any interest in a condominium unit offered or disposed of prior to filing for registration;
- (8) A statement as to whether the boundaries of the condominium property have been laid out by a registered land surveyor including:
 - a. Convertible lands;
 - b. Withdrawable lands;
 - c. Additional lands;
 - d. Common areas;
 - e. Limited common areas;
 - f. Any completed or proposed improvements as depicted on the site plan;
 - g. A description of the method used to depict boundaries; and
 - h. The name, address and board license number of the surveyor;
- (9) A statement as to whether the site and floor plans have been recorded;
- (10) Evidence, including copies of official approvals, of compliance with laws and rules administered and enforced by the New Hampshire department of environmental services and other federal, state, or local agencies which affect the condominium;
- (11) Schedules of promised construction, including:
 - a. Improvements completed as of the filing of the application; and
 - b. Good faith estimates of completion dates.
- (12) Copies of all financial assurances provided by the declarant to any governmental entity to secure completion of promised improvements and all financial information required by the bureau pursuant to Jus 1405.08, including copies of relevant legal instruments such as:
 - a. A surety bond;
 - b. Escrow agreement; or
 - c. Letter of credit;
- (13) A statement as to whether the declarant has obtained a loan or mortgage from any lending institution or person for the financing of the condominium, and, if so:
 - a. The name and address of any such institution or person;
 - b. The amount of the loan or mortgage;

- c. The amount of the loan or mortgage outstanding as of the date of filing;
 - d. An identification of any real or personal property providing security therefor;
 - e. Any arrangements made for securing partial releases or a total discharge of the mortgage, if it encumbers any unit or common area to be disposed of by the declarant; and
 - f. Copies of all loan agreements, mortgage deeds, and other such legal instruments related to financial encumbrances affecting the condominium;
- (14) A statement that the person who shall be offering or disposing of any interest in a condominium unit are either the declarant or regular employees of the declarant, and, if not, that a real estate agent or broker's license has been obtained by each such person pursuant to RSA 331-A;
- (15) A description of the nature and operation of the unit owners' association, if any, to be established, including a statement as to the maximum period the declarant can control the association, together with submission of copies of legal instruments relating to such association;
- (16) A description of any improvements required to be made by the purchaser in order to use the condominium unit in the manner represented by the declarant, and the estimated costs thereof;
- (17) A description of any initial or recurring fee or charge the purchaser is required to pay which, with respect to separately metered utility charges, this requirement can be satisfied by a statement that utility charges shall be separately metered.
- (18) Certification by the declarant on form CPLC151 if a corporation and on form CPLC152 if a partnership or other business organization that any necessary and proper vote by a business organization has authorized the applicant to:
- a. File an application for registration; and
 - b. To make an irrevocable appointment of the bureau to receive service pursuant to RSA 356-B:51, I(a); and
- (19) An affidavit on form CPLC154, by the declarant certifying that the application and information contained therein are true, correct, and complete.
- (20) A certificate of appointment on form CPLC153 irrevocably appointing the bureau to receive service pursuant to RSA 356-B:51, I.

Source. #5299, eff 1-19-92, EXPIRED: 1-19-98

New. #7641, eff 1-31-02

Jus 1405.05 Personal Background Statements, Form CPLC170.

(a) The contents of form CPLC170 shall be completed by each principal and consist of a sworn statement disclosing the following information:

- (1) Name, residence and business addresses for the past 5 years;
- (2) Date and place of birth;

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- (3) Social security number;
- (4) Nature of ownership or interest in the condominium or business organization of declarant, and official duties;
- (5) Employment history for the past 5 years, including:
 - a. Names of employers; and
 - b. Addresses of employers;
- (6) Educational background;
- (7) Names and addresses of 5 personal and business credit references;
- (8) Names and addresses of 5 character references;
- (9) Names and addresses of banking facilities used for personal and business accounts for the past 5 years;
- (10) Real estate licenses held and disclosure of any suspension, revocation, or investigation by a licensing authority;
- (11) A description of any bankruptcy, receivership, or foreclosure proceedings during the past 7 years relative to activities as a private individual or as an officer, director, or other principal of a business organization;
- (12) A description of any conviction as an individual or as an officer, director, or other principal of a business organization for a crime involving condominium unit dispositions or any aspect of the land sales business in this state, the United States, or any other state or foreign country within the past 10 years; and
- (13) A description of any injunctive or administrative order issued in this state, the United States, or any other state or jurisdiction within the past 5 years which restrains false or misleading promotional plans involving land disposition unfair or deceptive trade practices under 15 U.S.C. 45 (a)(1) or equivalent state statute, securities laws violations, or violation of statutes regulating the commodity futures industry.

Source. #5299, eff 1-19-92, EXPIRED: 1-19-98

New. #7641, eff 1-31-02

Jus 1405.06 Site and Floor Plans.

(a) Improvements shall be depicted on site plans filed with the application for registration exactly as the declarant has depicted or intends to depict them on the recorded site plans and “(NOT YET COMPLETED)” and “(NOT YET BEGUN)” labels shall be used with respect to such improvements exactly as the declarant had used or intends to use them on the recorded site plans, provided, however, that this sentence shall not be construed to require the recording of site plans identical to the plans filed with the application for registration.

(b) The requirement of RSA 356-B:51, I(b) that floor plans complying with RSA 356-B:20 are to be filed with the application shall be deemed satisfied by the filing of typical floor plans. The identifying numbers of all units represented by such typical plans shall be indicated. Each structure within which any such units are

located shall be depicted or otherwise identified so as to indicate the exact location of each such unit within the structure.

(c) As used above, "typical floor plans" means, in the case of units or structures containing units which are identical within normal construction tolerances, floor plans of one such unit or structure.

Source. #5299, eff 1-19-92, EXPIRED: 1-19-98

New. #7641, eff 1-31-02

Jus 1405.07 Certification of Plans.

(a) The certification of a site plan or floor plan required by RSA 356-B:20, I or II shall be signed by the appropriate person and can be made:

- (1) On the plan itself;
- (2) On a label to be affixed to the plan; or
- (3) On a separate certificate that identifies the plan to which it applies.

(b) Except as otherwise necessary to comply with Jus 1405.07(a), the certification language shall be as follows:

"I hereby certify that this plan is accurate and complies with RSA 356-B:20. All units or portions thereof depicted on any portion of the submitted land other than within the boundaries of any convertible land have been substantially completed."

(c) Site plans and floor plans or certificates bearing the certification language prescribed by this section shall be filed with each application for comprehensive registration but the certifications need not be signed.

Source. #5299, eff 1-19-92, EXPIRED: 1-19-98

New. #7641, eff 1-31-02

Jus 1405.08 Financial Information.

(a) Financial information required by Jus 1405.04(a)(12) shall consist of evidence of the declarant's ability to complete all proposed improvements to be located on the submitted land other than within the boundaries of the convertible land.

(b) Evidence required pursuant to (a) above shall include, at a minimum, the following:

- (1) Development and marketing costs;
- (2) Financing plan;
- (3) Financing commitments; and
- (4) Financial statements.

(c) In addition to the minimum requirements stated in (b) above, the bureau shall require an applicant to provide such other financial information that will assist it in making the determinations it is required to make pursuant to RSA 356-B:53, I.

Source. #5299, eff 1-19-92, EXPIRED: 1-19-98

New. #7641, eff 1-31-02

Jus 1405.09 Development and Marketing Costs.

(a) Information development and marketing costs required by Jus 1405.08 shall include expenditures and good faith estimates of projected costs of:

- (1) Land acquisition;
- (2) Construction;
- (3) Marketing;
- (4) Advertising;
- (5) Sales;
- (6) Interest owed; and
- (7) Any other costs related to the development of the condominium or disposition of the units.

Source. #5299, eff 1-19-92, EXPIRED: 1-19-98

New. #7641, eff 1-31-02

Jus 1405.10 Financing Plan.

(a) The plan of financing required by Jus 1405.08 shall include, at a minimum, a narrative description identifying all sources and amounts of financing of all promised improvements.

(b) In addition, the plan of financing shall include a good faith narrative or graphic cash flow projection relating to all promised improvements which depict, at a minimum, the anticipated schedule and amounts of:

- (1) Debt retirement;
- (2) Other expenses and anticipated use of income, including disbursements of income from all sources;
- (3) Sales revenue;
- (4) Other income;
- (5) Total gross income;
- (6) Total net income; and

(7) Declarants of time share condominiums shall also include a statement as to the availability of end loan financing.

Source. #5299, eff 1-19-92, EXPIRED: 1-19-98

New. #7641, eff 1-31-02

Jus 1405.11 Financing Commitment.

(a) Evidence of financing commitments required by Jus 1405.08 shall include, at a minimum:

(1) A copy of a written, signed, commitment from an institutional lender to advance construction funds to the declarant, sufficient to complete all promised improvements, or, to the extent that the declarant is not relying on funds borrowed from an institutional lender, a statement detailing what funds the declarant is relying on; and

(2) Other evidence of the commitment of funds sufficient to complete all promised improvements.

(b) The commitments required by this section may state that the commitment is subject to registration of the condominium prior to funding.

(c) Upon execution of a loan agreement, mortgage deed, or other such legal instrument related to any land acquisition or construction financing, with respect to that portion of a condominium for which registration has been applied or granted, the declarant shall submit to the bureau a copy of each such executed legal instrument.

(d) In the event a land acquisition or construction loan has not been funded by the date contemplated in the commitment letter or in the legal instrument evidencing the loan, the declarant shall immediately submit to the bureau a written statement explaining the status of the loan and why it has not been funded.

(e) With respect to any commitment or portion of a commitment for which there is a presale requirement that has not been met at the time the commitment is submitted to the bureau, such commitment or portion shall not be considered by the bureau in determining whether the financing is adequate.

(f) Notwithstanding (e) above, the bureau shall consider such commitment or portion on the following conditions:

(1) The declarant shall, within 270 days of the date of registration, submit to the bureau a statement from the lender indicating that the commitment, to the extent that it provides funding for construction of registered units, is no longer subject to a presale agreement; and

(2) Upon the failure of the declarant to comply with the above, the bureau shall issue any appropriate order after such notice and hearing as required by law, including requiring the declarant to return deposits with appropriate interest.

(g) For purposes of (e) above, "presale" means the existence of:

(1) A binding purchase and sale agreement;

(2) Agreement to lease; or

- (3) Any other similarly binding agreement or transaction.

Source. #5299, eff 1-19-92, EXPIRED: 1-19-98

New. #7641, eff 1-31-02

Jus 1405.12 Financial Statements.

(a) The financial statements required by Jus 1405.08 shall be the declarant's financial statements for the last full fiscal year. These statements shall be prepared in accordance with generally accepted accounting principles and shall be certified by an independent licensed or certified public accountant that they have been so prepared and that all adjustments necessary for a fair statement of the results for the periods shown have been included.

- (b) Statements required by (a), above, shall include:

- (1) A balance sheet;
- (2) A statement of profit and loss; and
- (3) A statement of changes in financial condition.

- (c) The statements shall be no more than 6 months old on the date the application is filed.

- (d) The requirements of (a) - (d) above shall not be fulfilled by submission of a financial compilation.

(e) If the statements are more than 6 months old at the date of submission of the application, or if the last full fiscal year has ended within the last 90 days and statements are not yet available, the declarant may submit a copy of the statements for the previous full fiscal year and supplement them with interim statements so that the financial information is no more than 6 months old on the date that the application is submitted.

(f) The interim statements referred to in (e), above may be prepared by company personnel but shall contain:

- (1) A balance sheet;
- (2) A statement of profit and loss; and
- (3) A statement of changes in financial condition.

(g) These interim statements referred to in (e), above shall be prepared in accordance with generally accepted accounting principles and shall be certified as provided above.

(h) If the declarant is newly formed and has had less than 3 years operating experience, an audited or unaudited balance sheet and statement of receipts and disbursements of funds may be submitted. This provision shall not apply to any entity formed more than 18 months prior to the submission of an application for registration.

(i) If the declarant is a subsidiary company, the bureau shall permit the use of the certified statements of the parent company provided that those statements are accompanied by an unconditional guaranty that the parent company shall perform and fulfill the obligations of the subsidiary.

- (j) If the declarant proceeds pursuant to (i) above, the declarant shall submit the following:

- (1) The certified financial statements of the parent company, together with interim statements if necessary, which comply with Jus 1405.12(a) - (e); and
- (2) A properly executed guaranty.

Source. #5299, eff 1-19-92, EXPIRED: 1-19-98

New. #7641, eff 1-31-02

Jus 1405.13 Purchase and Sale Agreement.

- (a) Declarants shall use a contract for the purchase or lease which includes:

- (1) Express notice of the purchaser's 5 day right to cancel, as prescribed by RSA 356-B:50, II;
- (2) The name and address of the escrow agent designated to carry out the provisions of RSA 356-B:57; and
- (3) A space for acknowledgment of receipt of the public offering statement provided, however, that the space for acknowledgment need not be used with respect to offering any condominium for which a public offering statement is not required.

(b) The escrow agent identified in the purchase and sale agreement shall be a person or entity unrelated to the declarant or any principal thereof and shall hold all escrowed funds pursuant to RSA 356-B:57 within the state of New Hampshire.

Source. #5299, eff 1-19-92, EXPIRED: 1-19-98

New. #7641, eff 1-31-02

Jus 1405.14 Bylaws.

- (a) The bylaws of the unit owners' association shall contain, in addition to all other statutory requirements, a section which sets forth the resale rights of the purchaser provided by RSA 356-B:58.

Source. #5299, eff 1-19-92, EXPIRED: 1-19-98

New. #7641, eff 1-31-02

Jus 1405.15 Application for Abbreviated Registration, Form CPLC110.

- (a) Application for the initial registration of a condominium of more than 10 units but no more than 25 units shall be made on form CPLC110, application for abbreviated registration, and shall be filed at the office of the bureau.

(b) Application shall be made on form CPLC110, application for abbreviated registration, for any condominium that, upon construction or addition of the total number of units which the condominium instruments reserve the right to construct or add, would include more than 10 units but no more than 25 units.

(c) Pursuant to RSA 356-B:49, III, a condominium which contains or might contain more than 25 units, but which will not contain more than 25 units designed or intended for residential use, shall be eligible for abbreviated registration. The bureau shall consider the fee for exemption from comprehensive

registration for such a condominium to have been fully paid by payment of the required fee for application for abbreviated registration.

Source. #5299, eff 1-19-92, EXPIRED: 1-19-98

New. #7641, eff 1-31-02

Jus 1405.16 Contents of Application for Abbreviated Registration.

(a) In addition to the documents and information required by RSA 356-B:51, II, or otherwise required by these rules, an application for abbreviated registration shall also contain the information and documentation required by Jus 1405.04(a)(1) through (20), and Jus 1405.08.

Source. #5299, eff 1-19-92, EXPIRED: 1-19-98

New. #7641, eff 1-31-02

Jus 1405.17 Applications Not in Proper Form.

(a) Upon receipt of an application for comprehensive or abbreviated registration that is not in proper form, including, but not limited to, an incomplete application or an application made on an incorrect form, the bureau shall return the application to the applicant. However, if the bureau has reason to believe the application can be readily put into proper form, it shall retain the application and issue to the applicant only a Notice of Deficiencies specifying the deficiencies in its form and any other correspondence or document.

(b) If the application is not put in proper form within 15 days after the issuance of a Notice of Deficiencies, the bureau shall reject the application.

Source. #5299, eff 1-19-92, EXPIRED: 1-19-98

New. #7641, eff 1-31-02

Jus 1405.18 Registration of Additional Units.

(a) This section shall apply only to those condominiums in which some units have already been registered.

(b) Application for registration of units which have not been previously registered, hereinafter referred to as additional unit shall be made either by:

(1) Filing with the bureau a form CPLC100 pursuant to Jus 1405.04; or

(2) Filing with the bureau a form CPLC110 pursuant to Jus 1405.15, if the condominium does not contain and never can contain more than 25 units.

(c) When filing a form CPLC100 or CPLC110 for additional units pursuant to this section, the application shall contain all information and documents required by the form, except that where the current information and documents do not differ from those filed with the original application, appropriate references can be made to the original application. Declarants may file a form CPLC100 or CPLC110 which includes all information contained in prior applications, as well as all additions, amendments, and changes, which additions, amendments, or changes shall be redlined, underlined, or otherwise highlighted for review by the bureau.

Source. #5299, eff 1-19-92, EXPIRED: 1-19-98

New. #7641, eff 1-31-02

Jus 1405.19 Fees.

(a) An application for registration of additional units shall be accompanied by a fee in the amount of \$200 or \$30 for each unit for which registration is sought, whichever is greater, provided, however, that no more than \$2,000 shall be submitted with the application.

Source. #5299, eff 1-19-92, EXPIRED: 1-19-98

New. #7641, eff 1-31-02

Jus 1405.20 Registration Certificate.

(a) Registration of units in a condominium shall be evidenced by a certificate issued by the bureau to the declarant.

(b) The registration shall authorize the offer or disposition of only those units, or interests in units, identified in the certificate.

(c) The bureau shall issue the certificate within 20 days after the effective date of the exemption.

(d) The declarant of a condominium located in the state of New Hampshire shall cause any certificate of registration issued by the bureau with respect to such condominium to be recorded in the registry of deeds for the county wherein the condominium is located. Such recordation shall occur within 10 days of receipt of a certificate of registration by the declarant.

(e) The declarant shall, as soon as is practicable, obtain recordation data consisting of:

(1) The date of recordation;

(2) The book and page numbers or their equivalent; and

(3) The declarant shall provide the bureau, in writing, with a copy of the recorded certificate within 10 days after receipt thereof.

(f) Except as otherwise provided by the terms of the certificate, a registration shall remain in full force and effect until such time as it has been revoked upon notice and hearing as provided by Jus 1408.

Source. #5299, eff 1-19-92, EXPIRED: 1-19-98

New. #7641, eff 1-31-02

Jus 1405.21 Recordation of Instruments.

(a) If the condominium instruments recorded differ from the condominium instruments filed with the bureau in any way not covered by (c) below, the declarant shall:

(1) Forward to the bureau a copy of each of the pages in the instrument that are different; and

(2) Highlight the changes by redlining or other conventional draftsman's technique.

(b) The requirements of this section shall not relieve the declarant of the obligation to comply with Jus 1405.23 or RSA 356-B:54, IV.

(c) The addition of signatures, notarizations and dates or the correction of typographical errors shall not constitute a different instrument for the purposes of this section.

Source. #5299, eff 1-19-92, EXPIRED: 1-19-98

New. #7641, eff 1-31-02

Jus 1405.22 Annual Report.

(a) Pursuant to RSA 356-B:55, the annual report filed on or before April 1 of each year following the date of the original registration shall be filed on form CPLC200.

(b) The contents of the annual report, filed on CPLC 200, shall include:

- (1) A statement as to whether all improvements in the condominium have been completed;
- (2) A statement as to whether all of the units have been disposed of by the declarant;
- (3) A statement as to whether there have been any material changes to the information provided in the original application;
- (4) If any material changes have been made, a statement as to what the changes are;
- (5) If there has been any change in the ownership interests in the corporation or organization, a list of the changes.

(b) The report shall be accurate as of the date that the report is made out by the declarant, except for the financial statements, which shall reflect the declarant's financial condition as of the date no earlier than December 31 of the year immediately preceding the date of the annual report.

(c) The bureau shall provide a copy of form CPLC200 to each declarant at the time it issues an initial certificate of registration to the declarant or upon written request by the declarant or its counsel.

(d) Notwithstanding (c) above, it shall be the responsibility of the declarant to file annual reports pursuant to (a) above, on or before April 1 of each year during which the declarant might be required to make such filing. Such responsibility shall not be dependent on reception by the declarants of any notice from the bureau that the annual report is or will be due pursuant to this section.

(e) A declarant shall be exempted from filing an annual report pursuant to this section if it provides to the bureau its affidavit signed by the declarant if a natural person, or, if the declarant is a legally constituted entity, by an officer or principal thereof authorized to sign such affidavit, that all promised improvements in the condominium have been completed and all units sold or disposed of.

(f) Notwithstanding any other provision of this section, a declarant shall file with the bureau a supplement to the annual report within 5 business days of the occurrence of any of the following:

- (1) Reception by the declarant of a notice of foreclosure under any mortgage granted by the declarant affecting the condominium or any unit thereof; or
- (2) The filing of a petition for voluntary or involuntary bankruptcy by, or involving the declarant or any affiliate of the declarant under any chapter of the United States Bankruptcy Code, 11 U.S.C. 101 et seq. or of similar process under any state insolvency law.

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(g) The supplement to the annual report required by (f) above, shall be submitted in the form of an affidavit by the declarant, or a principal or officer of the declarant authorized to sign such affidavit, and shall bear the caption "FORM CPLC200-SUPPLEMENT."

(h) A supplement to the annual report submitted pursuant to (f)(1) above shall contain the following information:

- (1) A description of the mortgage instrument being foreclosed upon, identifying by full name and address all parties secured thereunder, as well as any person or entity exercising any right of foreclosure thereunder;
- (2) The date, place and manner of any scheduled foreclosure sale or other disposition of all affected property; and
- (3) The date and manner of reception by the declarant of the notice of foreclosure.

(i) The information required by (h) above may be provided by submitting to the bureau a copy of any notice provided to a declarant pursuant to RSA 479:25, III, together with an affidavit of the declarant or a principal or officer thereof authorized to sign such affidavit, in the form prescribed by (g) above certifying that, and specifying the date on which, declarant received the notice.

(j) A supplement to the annual report submitted pursuant to (f)(2) above shall contain the following information:

- (1) The mailing address of the court in which the bankruptcy petition or other process has been filed;
- (2) The date of such filing;
- (3) Whether such filing is effected pursuant to the United States Bankruptcy Code, 11 U.S.C. 101 et seq., and if so, identifying the chapter of the Bankruptcy Code pursuant to which the filing is made; and
- (4) If the filing is made pursuant to an insolvency law of any state, the title of, and citation to the law, with a description of the form of protection sought by the filing, whether liquidation, reorganization, or the like.

(k) Failure of the declarant to file its annual report pursuant to RSA 356-B:55 during any period of time during which it is required to do so, or failure to timely file any required supplement to the annual report pursuant to this section, or both, shall constitute an irreparable harm to the public interest, subject to issuance of a cease and desist order pursuant to RSA 356-B:61, II, requiring the declarant to file its annual report or supplement thereto within 30 days of the date of such order. Failure to comply with such order shall constitute adequate grounds for revocation or suspension of registration pursuant to RSA 356-B:62, I.

Source. #5299, eff 1-19-92, EXPIRED: 1-19-98

New. #7641, eff 1-31-02

Jus 1405.23 Material Changes.

(a) Notification to the bureau of proposed material changes in the plan of disposition or development of a condominium shall be in writing.

(b) No such change may be made unless and until the bureau has given its affirmative written approval of the change based upon the declarant's compliance with all applicable statutes and rules.

Source. #5299, eff 1-19-92, EXPIRED: 1-19-98

New. #7641, eff 1-31-02

Jus 1405.24 Registration by Successor Declarant.

(a) Any person who comes to stand in the same relation to the condominium as the original declarant shall make separate application to the bureau for registration as a successor declarant.

(b) The initial application of a successor declarant shall be made form CPLC100, application for comprehensive registration, or form CPLC110, application for abbreviated registration, as appropriate, regardless of whether the successor declarant seeks to register units already registered, or additional units.

(c) A successor declarant may incorporate by reference the contents of a preceding application to the extent that such incorporation does not render the successor declarant's application inaccurate.

Source. #5299, eff 1-19-92, EXPIRED: 1-19-98

New. #7641, eff 1-31-02

Jus 1405.25 Registration of Condominiums Located Outside of New Hampshire.

(a) With respect to applications for registration of condominiums located outside of New Hampshire, the bureau shall accept, in lieu of CPLC100, application for comprehensive registration, or CPLC110, application for abbreviated registration:

(1) A certified copy of an application for registration or its equivalent filed with the competent state regulatory agency of any other state with all exhibits and addenda thereto, together with a certificate of registration or other evidence of approval by such agency; or

(2) A certified copy of a Statement of Record filed with the office of interstate land sales registration of the United States Department of Housing and Urban Development with all exhibits and addenda thereto, together with a certificate of registration issued by that agency.

Source. #5299, eff 1-19-92, EXPIRED: 1-19-98

New. #7641, eff 1-31-02

PART Jus 1406 PUBLIC OFFERING STATEMENT

Jus 1406.01 Public Offering Statement Form.

(a) The information contained in the public offering statement shall be set forth under appropriate captions or headings which are reasonably indicative of the principal subject matter thereunder and shall be divided into reasonably short paragraphs or sections. The pages shall be numbered sequentially.

(b) The public offering statement shall be prepared on good quality, unglazed, white paper, 8 ½" x 11" in size.

(c) A waiver of (b), above, shall be granted by the bureau if the proposed alternative size and coloring is of comparable visual quality.

(d) The public offering statement shall be:

- (1) Printed;
- (2) Lithographed;
- (3) Mimeographed;
- (4) Typewritten and photocopied; or
- (5) Prepared by a process that produces a document that is legible and suitable for a permanent record.

(e) The public offering statement shall be as brief as is consistent with full and accurate disclosure. In no event shall the statement be made so lengthy or detailed so as to discourage close examination. Except for brief excerpts therefrom, the public offering statement shall not incorporate verbatim portions of the condominium instruments.

(f) The purchaser's attention shall be directed to pertinent portions of those instruments which are attached as exhibits or otherwise made available.

(g) No public offering statement shall be distributed in connection with the marketing of any unit or interest in any condominium before said condominium unit or interest has been registered by the bureau, provided, however, that the bureau can, upon written request by the declarant, permit such distribution prior to registration under such terms and conditions as the bureau deems appropriate.

Source. #5299, eff 1-19-92, EXPIRED: 1-19-98

New. #7641, eff 1-31-02

Jus 1406.02 Contents of Cover Page.

(a) The public offering statement shall set forth on its outside front cover or first inside page, a statement, substantially as follows, capital letters printed in boldface roman type at least as large as 10 point type:

“PUBLIC OFFERING STATEMENT

THIS CONDOMINIUM IS REGISTERED WITH THE CONSUMER PROTECTION AND ANTITRUST BUREAU OF THE DEPARTMENT OF JUSTICE OF THE STATE OF NEW HAMPSHIRE PURSUANT TO THE PROVISIONS OF THE NEW HAMPSHIRE CONDOMINIUM ACT, RSA 356-B. THE ACT REQUIRES THAT A CURRENT PUBLIC OFFERING STATEMENT BE FURNISHED TO A PURCHASER PRIOR TO OR AT THE TIME THE PURCHASER ENTERS INTO A PURCHASE AGREEMENT. THE PURPOSE OF THE STATEMENT IS TO DISCLOSE MATERIAL FACTS PERTAINING TO THIS CONDOMINIUM. IT IS RECOMMENDED THAT THE PURCHASER READ THIS STATEMENT CAREFULLY, PHYSICALLY INSPECT THE PROPERTY, REVIEW ALL SALES AND OTHER DOCUMENTS IN DETAIL AND CONSULT AN ATTORNEY FOR ADVICE. NOTHING CONTAINED HEREIN SHOULD BE CONSTRUED AS SUGGESTING THAT THE CONSUMER PROTECTION AND ANTITRUST BUREAU OR ANY OTHER PUBLIC AGENCY RECOMMENDS THE CONDOMINIUM OR HAS DETERMINED THAT THE DISPOSITION OF ANY CONDOMINIUM UNIT OR INTEREST THEREIN IS LEGALLY SUFFICIENT TO PROTECT THE RIGHTS OF THE PURCHASERS.

RECEIPT OF THIS STATEMENT MUST BE ACKNOWLEDGED IN WRITING BY THE PURCHASER.

ANY COMPLAINT ALLEGING UNFAIR OR DECEPTIVE SALES PRACTICES OR A VIOLATION OF THE CONDOMINIUM ACT MAY BE DIRECTED TO:

**CONSUMER PROTECTION AND ANTITRUST BUREAU
33 CAPITOL STREET
CONCORD, NH 03301”**

(b) Immediately following the statement quoted in Jus 1406.02(a), the following language shall also be included:

“IMPORTANT

NOTICE OF PURCHASER’S CANCELLATION RIGHTS

New Hampshire law provides that you have an express and unqualified right to cancel your Purchase and Sale Agreement within 5 calendar days from the date the agreement was entered into or the delivery to you of the Public Offering Statement, whichever is later. If you elect to cancel, you may do so by written notice thereof, hand-delivered or deposited in the United States mail, return receipt requested, within the 5-day period, to the declarant or to any agent of the declarant, provided that, however, if you elect to mail the notice of cancellation, you must also provide the declarant with telephonic notice of cancellation within the 5-day period. Such cancellation shall be without penalty and any deposit made by you must be refunded in its entirety no later than 10 calendar days from the declarant’s receipt of your written notice of cancellation.”

(c) The cover page or first inside page shall also include:

- (1) The name of the condominium;
- (2) The effective date(s) of registration; and
- (3) When applicable, the date of the most recent approval of the public offering statement by the bureau.

Source. #5299, eff 1-19-92, EXPIRED: 1-19-98

New. #7641, eff 1-31-02

Jus 1406.03 Contents of Public Offering Statement.

(a) Every public offering statement shall contain:

(1) An index of the contents and exhibits of the public offering statement; and

(2) A narrative section which shall include the following information:

a. The name and principal address of the declarant and the condominium;

b. A brief history of the declarant with emphasis on any experience in condominium development;

c. A brief explanation of the condominium concept, including the distinction among units, common areas, limited common areas, if any, and ownership of an undivided interest in the common area;

d. A brief explanation of the manner in which the condominium was or will be created, together with a description of:

1. The condominium declaration and bylaws;

2. The procedure for their amendment; and

3. A statement that copies of such instruments are attached as exhibits;

e. A general description of the nature of the condominium and of the plan of its development, including:

1. The total number of units and interests in such units if time sharing is involved, registered by the bureau;

2. The total number of units and interests in such units if time sharing is involved, planned to be sold or rented by the declarant; and

3. The total number of units and interests in such units if time sharing is involved;

f. A general description of the various units being offered together with the dates on which substantial completion of unfinished promised units is contemplated;

g. A general description of any common area facilities or amenities which might be constructed, including:

1. A statement whether or not assurances are given as to their construction or completion; and

2. The status of construction;

h. A general description of any easements or restrictions, including any:

1. Subdivision;

2. Zoning;

3. Water pollution;
 4. Other local or state governmental regulations affecting the condominium or any unit thereof; and
 5. An itemization of all such governmental approvals obtained by the declarant;
- i. A list and summary of the significant terms of any encumbrances and matters of title affecting the condominium, or any unit thereof, including, where appropriate:
1. An explanation of the consequences of the declarant's failure to discharge any such encumbrance or matter of title and the steps taken, if any, to protect the purchaser in the case of this eventuality; and
 2. A statement that copies of relevant legal documents will be made available upon request;
- j. A general description of:
1. The plan for management of the condominium;
 2. A projected budget for the period extending at least until the end of the ensuing full calendar year of the condominium's operation including projected common expenses for each unit;
 3. A statement as to whether any provisions have been made in the budget for capital expenditures or major maintenance reserves;
 4. A description of the relationship, if any, between the declarant and the managing agent or firm, if any; and
 5. Where appropriate, a statement with copies of the management contract and projected budget attached as exhibits;
- k. A list of any express warranties provided by the declarant on the units and common area, as well as:
1. A brief description of the warranty prescribed by RSA 356-B:41, II; and
 2. A statement that documents evidencing such warranties will be provided to the purchaser at the time of sale;
- l. A general description of the unit owners' association, how it is or will be governed and administered, including:
1. A statement as to the allocation of voting power among the unit owners'; and
 2. The maximum time the declarant can control such association;
- m. A description of:
1. Any rights of first refusal; and
 2. Limitations on leasing or other restraints on free alienability created by the condominium instruments or the rules and regulations of the unit owners' association,

which affect the unit owners' right to resell, lease, or otherwise transfer an interest in a condominium unit;

n. A description of:

1. Any initial or recurring fees or charges the purchaser is required to pay arising from:
 - (i) The purchase or use of any unit in the condominium; and
 - (ii) The maintenance or management of the condominium;
2. The consequences for a unit owner who fails to pay, when due, assessments levied against this condominium unit; and
3. With respect to separately metered utility charges, the description requirement may be satisfied by a statement that utility charges shall be separately metered;

o. A general description of the insurance on the condominium to be maintained by the unit owners' association;

p. A description of any legal proceedings against the declarant which might affect the financial status of the condominium and of any legal proceedings brought within the last 5 years by a unit owners' association or a unit purchaser against the declarant, against a principal of the declarant or against another principal of the declarant, officer, partner, or trustee is a principle of the declarant, including:

1. The identity of the court;
2. The docket number;
3. The names of the parties;
4. A brief summary of the allegations; and
5. A statement of the status or the outcome of the case;

q. Notice that any deposit made in regard to any sale of a condominium unit or interest therein will be held in escrow until settlement or closing and the name and address of the escrow agent.

r. An acknowledgement page for the purchaser to sign acknowledging receipt of the notice required by Jus 1406.02(a); and

s. An exhibit section which shall include the following documents:

1. The declaration and any amendments thereto;
2. The bylaws;
3. The projected budget and estimated per unit assessment;
4. Any management contract;
5. Any legal instrument creating the unit owners' association; and

6. Any rules and regulations of the unit owners' association.

(b) A declarant may include a good faith statement of opinion as to the merits of such litigation.

(c) Subparagraph (a)(2) q. above need not be complied with if the declarant complies with RSA 356-B:57 and Jus 1403.05.

(d) The unit assessments shall be based only on those units which the declarant reasonably expects to be assessed during the period of operation reflected in the budget, however, the declarant shall not be prohibited from guaranteeing a specific assessment amount for a specified period.

Source. #5299, eff 1-19-92, EXPIRED: 1-19-98

New. #7641, eff 1-31-02

Jus 1406.04 Additional Disclosure Requirements for Time Sharing and Conversion Condominiums.

(a) When a declarant is engaged in the offer and disposition of time sharing interests in condominium units, the following information shall also be included in the public offering statement:

(1) A paragraph setting forth:

- a. The names and addresses of any exchange programs with which the time sharing condominium is affiliated;
- b. The term of the present contract between the declarant and each exchange program;
- c. The annual fee for services; and
- d. A statement that each exchange program is an independent entity which is not required to register with the department of justice or to remain affiliated with the declarant beyond the contract term;

(2) A paragraph stating that the declarant makes no representations as to the feasibility of future resale of time sharing interests purchased and giving notice whether or not the declarant will assist purchasers in the resale of time sharing interests;

(3) In reference to the projected budget:

- a. A statement describing any reserve fund established to maintain the real property and to replace, repair, or refurbish the personal property in each unit; or
- b. If no such fund has been established, a statement to that effect;

(4) If the time sharing interest offered is not a fee simple interest:

- a. A paragraph detailing the nature of the ownership structure of the condominium;
- b. The nature and extent of any blanket encumbrances on the property; and
- c. The steps taken, such as execution of agreements, to protect purchasers in the event of any foreclosure on the property, receivership proceeding, or bankruptcy proceedings against the declarant.

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(b) When a declarant is engaged in the offer or disposition of any interest in a unit in a conversion condominium, the following information shall also be included in the public offering statement, as required by RSA 356-B:56, I(a) through (d):

- (1) The amount of any initial or special condominium fee due from the purchaser on or before settlement or closing of the purchase contract and the basis for that fee; and
- (2) Information on the actual expenditures made on all repairs, maintenance, operation or upkeep of the subject building or buildings within the last 3 years or for the period of the declarant's ownership, whichever is less.
- (3) A description of any provisions made in the budget for reserves for capital expenditures and an explanation of the basis for such reserves, or, if no provision is made for such reserves, a statement to that effect;
- (4) A statement of the declarant as to the present condition of all structural components in the condominium, as well as a statement regarding the present condition of the major utility installations; and
- (5) The approximate dates of construction, installation, and major repairs, if known, and the expected useful life of each such item, together with the estimated cost in current dollars of replacing each of the same.

(c) If any of the information required by (b)(3), (4) and (5) above is unknown, that fact shall be disclosed.

Source. #5299, eff 1-19-92, EXPIRED: 1-19-98

New. #7641, eff 1-31-02

Jus 1406.05 Desk Copy of Public Offering Statement to be Made Available to Prospective Purchasers.

(a) At least one master copy of the current public offering statement approved by the bureau shall be maintained by the declarant as a desk copy and made readily available for inspection by any person who might visit the condominium, or any sales office or other location in or from which units or interests in the condominium may be offered or sold.

(b) The desk copy shall be placed in a visible location where prospective purchasers are routinely invited to commence tours of the condominium or receive sales presentations.

(c) No person shall be advised by a declarant, or an agent of the declarant, including sales personnel, that a copy of the public offering statement can be inspected only by purchasers.

Source. #5299, eff 1-19-92, EXPIRED: 1-19-98

New. #7641, eff 1-31-02

PART Jus 1407 MARKETING

Jus 1407.01 Gifts.

(a) The bureau shall permit promotional activity which includes:

- (1) The offering of intangible property as an inducement to visit a condominium;
- (2) To attend a meeting at which a condominium will be discussed; or
- (3) To acquire an interest in a condominium unit if the bureau finds that:
 - a. The promotional activity does not constitute participation in a lottery, sweepstakes, or a contest of the like;
 - b. The offer is not being made in a manner dependent on or connected with chance;
 - c. The offeree is reasonably likely to commence full enjoyment of the benefits of the gift on the day of his visit to the condominium or attendance at the meeting at which the condominium will be discussed;
 - d. Permitting the offering will not be inconsistent with the protection of purchasers pursuant to RSA 356-B; and
 - e. Enforcement of RSA 356-B:50, IV is not necessary in the public interest or for the protection of purchasers by reason of the small amount involved or the limited character of the offering.

Source. #5299, eff 1-19-92, EXPIRED: 1-19-98

New. #7641, eff 1-31-02

Jus 1407.02 Review by the Bureau.

(a) At least 10 business days prior to offering any gift of intangible property as contemplated by Jus 1407.01, the person proposing to make the offer shall submit to the bureau an application for exemption on form CPLC120/Exemption Request provided for by Jus 1404.16 and Jus 1404.20(a)(5). The application shall be accompanied by a nonrefundable fee in the amount of \$200.

(b) The application shall include, at a minimum:

- (1) A request for exemption from the provisions of RSA 356-B:50, IV with respect to the offering;
- (2) A copy of the text of the proposed gift offer and all related promotional materials;
- (3) A statement as to the suggested retail value of the gift and the source of this claim;
- (4) The inclusive dates of intended use;
- (5) The estimated number and geographical distribution of offerees;
- (6) The name and address of the marketing company or distribution agent, if any, for the offer;
- (7) A statement of any terms and conditions not disclosed in the text of the offer to the offeree;
- (8) A statement of assurance as to the applicant's ability to carry out the terms of the offer;
- (9) The name, address, and telephone number of the applicant; and

(10) A statement as to why enforcement of RSA 356-B:50, IV is not necessary in the public interest or for the protection of purchasers by reason of the small amount involved or the limited character of the offering.

(c) Within 10 business days of receipt of the application for exemption, the bureau shall grant or deny the application for exemption pursuant to Jus 1407.01.

(d) No offering of any gift of intangible property may be made prior to written or oral notice given by the bureau that the exemption has been granted.

Source. #5299, eff 1-19-92, EXPIRED: 1-19-98

New. #7641, eff 1-31-02

Jus 1407.03 Non-binding Reservation Agreements.

(a) In addition to those requirements imposed by RSA 356-B:3, XXI, RSA 356-B:49, II, and any other applicable statutory provision, the following shall apply to use on non-binding reservation agreements:

(1) Written notice to the bureau of the declarant's intention to obtain non-binding reservation agreements shall be accompanied by a copy of the proposed form of the non-binding reservation agreement; and

(2) Every non-binding reservation agreement shall be labeled as such in capital letters at the top of the agreement and include the following disclosures to the prospective purchaser:

a. That the agreement is in no way binding on the prospective purchaser and can be cancelled without penalty at the sole discretion of the prospective purchaser by written notice, hand-delivered or sent by United States mail, return receipt requested, to the declarant or to any agent of the declarant at any time prior to the formation of the contract for the sale or lease of any interest in a condominium unit;

b. That the condominium is not yet registered by the consumer protection and antitrust bureau of the attorney general's office, department of justice, and until such registration is ordered, no binding contract for sale or lease of any interest in a unit may be created;

c. Any deposit made under the agreement shall be held in escrow and shall be returned by the declarant no later than 10 days following receipt of cancellation of the agreement; and

d. The name and address of the escrow agent, who shall be a person or entity unrelated to the declarant or any principal thereof, and hold all escrowed funds pursuant to RSA 356-B:57 within the state of New Hampshire.

(b) The bureau shall not, as a matter of course, approve or disapprove the use or form of a non-binding reservation agreement. However, upon determination that any statutory requirement or rule has not been satisfied with respect to a non-binding reservation agreement, shall require the declarant to amend the agreement.

(c) Upon cancellation of a non-binding reservation agreement, any deposit made in connection with the agreement shall be returned with interest, unless a written agreement provides that interest shall not be returned.

(d) Unless the declarant's right to cancel the agreement or to increase the price is expressly retained in the written non-binding reservation agreement, no declarant shall cancel a non-binding reservation agreement with a purpose of increasing the purchase price of a unit so reserved, nor shall the purchase price be increased.

(e) No declarant shall state a price in a non-binding reservation agreement with intent to sell the unit at a price other than the stated price.

Source. #5299, eff 1-19-92, EXPIRED: 1-19-98

New. #7641, eff 1-31-02

Jus 1407.04 Advertising.

(a) Except as provided in Jus 1404.07 or unless exempt under RSA 356-B:49, I, or unless the condominium has been registered or exempted from registration by the bureau, no condominium may be advertised, regardless of the medium, prior to submission to the bureau of the notice required by Jus 1407.03 and RSA 356-B:49, II.

(b) Unless exempt under RSA 356-B:49, I, no condominium may be advertised, regardless of the medium, prior to registration or exemption from registration unless each such advertisement bears in a conspicuous manner substantially the following statement:

“This condominium has not yet been registered by the New Hampshire Consumer Protection and Antitrust Bureau of the Attorney General's Office, Department of Justice. Until such time as registration has been issued, only non-binding reservation agreements may be accepted.”

(c) No advertisement, regardless of the medium, shall refer to any improvements or amenities that have not been completed, unless the advertisement discloses, in a conspicuous manner, the fact that the improvements or amenities are under construction, planned or proposed, as appropriate.

(d) If the declarant has not promised in an application for exemption or registration, and included good faith estimates and financial assurances with regard to completion, that the improvement or amenity shall be completed, then the advertisement shall state that the improvement or amenity is proposed.

Source. #5299, eff 1-19-92, EXPIRED: 1-19-98

New. #7641, eff 1-31-02

Jus 1407.05 Interstate Advertising.

(a) A condominium which is not located in this state and is not registered in this state may be advertised in out-of-state publications disseminated in this state or through an out-of-state medium received in this state only if:

(1) The advertisement is not intended to induce or encourage persons in this state to acquire a legal or equitable interest in a unit in the condominium; and

(2) No disposition of an interest in a unit in the condominium is made to a person who was in this state when the advertisement was received by him.

Source. #5299, eff 1-19-92, EXPIRED: 1-19-98

New. #7641, eff 1-31-02

PART Jus 1408 CONTESTED CASES AND PETITIONS FOR ADMINISTRATIVE ACTION

Jus 1408.01 Administrative Procedures Act.

(a) In responding to any petition for rule making or declaratory ruling and when proceeding in any contested case under RSA 356-B, the bureau shall comply with and be guided by the provisions of RSA 541-A.

(b) To the extent that RSA 356-B is not inconsistent with RSA 541-A, the bureau shall comply with and be guided by the appropriate provisions of RSA 356-B.

Source. #5299, eff 1-19-92, EXPIRED: 1-19-98

New. #7641, eff 1-31-02

Jus 1408.02 Notice.

(a) Written notice of an adjudicative proceeding, received by prepaid certified mail by a party at least 30 days prior to the date of the hearing, shall be deemed reasonable.

Source. #5299, eff 1-19-92, EXPIRED: 1-19-98

New. #7641, eff 1-31-02

Jus 1408.03 Presiding Officer.

(a) The presiding officer at an adjudicative hearing conducted under RSA 356-B shall be the assistant attorney general in charge of the bureau or any person designated by assistant attorney general.

Source. #5299, eff 1-19-92, EXPIRED: 1-19-98

New. #7641, eff 1-31-02

PART Jus 1409 EXTENSION OF PERIOD TO EXPAND OR CONTRACT CONDOMINIUM

Jus 1409.01 Certification of Amendment Required.

(a) The enactment of an amendment to the declaration of a condominium pursuant to RSA 356-B:54, V, extending the time limit for conversion, expansion, or contraction of a condominium shall be deemed a material change in the plan of development or disposition of the condominium, and the declarant shall provide notice of such amendment to the bureau prior to recording such amendment.

(b) Such notice shall consist of a copy of the amendment as enacted and a "Certification of Amendment Pursuant to RSA 356-B:54, V," form CPLC300, which form shall be provided by the bureau to the declarant upon request.

(c) The declarant shall certify:

- (1) That the required vote by the condominium unit owners' was obtained as required by RSA 356-B:54, V(a);
- (2) The date of the original recording of the declaration;
- (3) The date of the amendment;
- (4) The number of units substantially complete; and

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(5) The number of units that may be added to the condominium by reason of conversion or expansion.

Source. #5299, eff 1-19-92, EXPIRED: 1-19-98

New. #7641, eff 1-31-02

PART Jus 1410 AFFIRMATION OF COMPLETE APPLICATION

Jus 1410.01 Cover Sheet Required for all Applications, Form CPLC001.

(a) All applications for exemption or registration submitted to the bureau pursuant to these rules shall be accompanied by a cover sheet, form CPLC001, affirming that the application submitted is complete.

(b) The cover sheet shall consist of an affirmation signed by the applicant, if a natural person, or, if the applicant is a legally organized entity, by an officer or principal of the applicant authorized to sign such affirmation.

(c) The affirmation shall include that the application includes the following:

- (1) All required certifications;
- (2) The filing fee;
- (3) Evidence that all state and local approvals are final;
- (4) Evidence of a financing commitment; and
- (5) A copy of all site and floor plans.

(d) If an applicant fails to submit form CPLC001 with an application, or fails to respond affirmatively to all certifications requested in a submitted form CPLC001, the bureau shall return the application to the applicant as incomplete, together with all fees submitted therewith.

Source. #5299, eff 1-19-92, EXPIRED: 1-19-98

New. #7641, eff 1-31-02

PART Jus 1411 FORMS

Jus 1411.01 Availability of Forms.

(a) The bureau shall have available, upon request, the following forms at the bureau's office located at:

Attorney General's Office
Consumer Protection and Antitrust Bureau
33 Capitol Street
Concord, NH 03301
(603) 261-3641

- (1) CPLC100 Comprehensive registration application.
- (2) CPLC110 Abbreviated registration application.
- (3) CPLC121 Application for 25 unit exemption.

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- (4) CPLC122 Application for 10 residential unit exemption.
- (5) CPLC151 Corporate certificate of resolution.
- (6) CPLC152 Partnership or other business organization certificate of resolution.
- (7) CPLC153 Certificate of appointment.
- (8) CPLC154 Applicant's affidavit/affirmation.
- (9) CPLC160 Bond to insure completion of improvements.
- (10) CPLC170 Principal's background statement.
- (11) CPLC200 Annual report
- (12) CPLC300 Certification of amendment pursuant to RSA 356-B:54, V.
- (13) CPLC001 Affirmation of complete application.

(b) Declarants may use exact copies or exact facsimiles prepared by the declarant of the forms described in paragraph Jus 1411.01.

(c) All documents submitted to the bureau in connection with any application for exemption or registration, including all forms, or copies or facsimiles thereof, and all exhibits and appendices to such forms, shall be on 8 ½" x 11" paper except that site plans and any floor plans or other construction plans can be submitted in larger format, provided such plans are folded as nearly as practicable to those dimensions.

Source. #5299, eff 1-19-92, EXPIRED: 1-19-98

New. #7641, eff 1-31-02

APPENDIX

<u>Rule Number</u>	<u>State Statute Implemented</u>
Jus 1401.01 - 1401.07	RSA 356-B:3
Jus 1402.01 - 1402.03	RSA 356-B:51, VII
Jus 1402.04	RSA 356-B:49, II
Jus 1403.01 - 1403.03	RSA 356-B:16; 356-B:20
Jus 1403.04	RSA 356-B:57
Jus 1404.01	RSA 356-B:49, III
Jus 1404.02 - 1404.06	RSA 356-B:49, III
Jus 1404.07	RSA 346-B:49, III; 356-B:50
Jus 1404.08 - 1404.11	RSA 356-B:49, III
Jus 1404.12	RSA 356-B:54
Jus 1404.13 - 1404.14	RSA 356-B:49, II, III
Jus 1404.15	RSA 356-B:54; 356-B:49, II, III
Jus 1404.16	RSA 356-B:49, III
Jus 1404.17	RSA 356-B:62
Jus 1404.18, 1404.20	RSA 356-B:49, II, III; 356-B:48
Jus 1404.21	RSA 356-B:54
Jus 1405.01	RSA 356-B:49
Jus 1405.02	RSA 356-B:51
Jus 1405.03 - 1405.14	RSA 356-B:51; 356-B:57
Jus 1405.15 - 1405.16	RSA 356-B:51, II
Jus 1405.17	RSA 356-B:54
Jus 1405.18	RSA 356-B:51, V
Jus 1405.19	RSA 356-B:51, VII
Jus 1405.20	RSA 356-B:54
Jus 1405.21 - 1405.22	RSA 356-B:55
Jus 1405.23	RSA 356-B:54, IV
Jus 1405.24	RSA 356-B:51
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Jus 1406.01 - 1406.05	RSA 356-B:52
Jus 1407.01 - 1407.02	RSA 356-B:49, III
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